

**REMARKS/ARGUMENTS**

Claims 1-11 and 14-22 are pending in the present application. Reconsideration of the present application is respectfully requested in view of the following remarks.

The rejection of claims 12 and 13 under 35 U.S.C. 112, second paragraph, is incorrect. Specifically, as applicants have previously advised the Examiner, claims 12 and 13 are not pending in the present application because they were canceled in the Preliminary Amendment dated July 30, 2001.

The rejection of claims 1-3, 10, 14, 16 and 18-22 under 35 U.S.C. 102(b) as being anticipated by Rouchaud et al. or Viviani et al. is respectfully traversed for the reasons set forth below.

The Rouchaud et al. article deals with the environmental fate of IFT in soil after a single application of IFT to the soil sample. The single application of IFT was a non-slow release formulation (i.e., the IFT was formulated as a water dispersible granule, which immediately releases the IFT upon contact with water). Accordingly, this article does not anticipate the invention of the present claims. Further, this article is not even a reference to the present application under 35 USC 102(b) because it was not published more than one year before the priority date for the present application. Specifically, the Rouchaud et al. article was published in the April 1998 edition of the Bulletin of Environmental Contamination and Toxicology (see attached Exhibit A), which is clearly less than one year before the earlier February 1, 1999 priority date for the present application, and was probably not even received by the public until after April 12, 1998, which would mean that it was also published less than one year before the second priority date for the present application (i.e., April 12, 1999).

The Viviani et al. article deals with the physiological behavior of diketonitrile derivatives within plants (not within the soil). As such, it is irrelevant to the invention of the present claims. Further, since the Viviani et al. article was published in the November

1998 edition of Pesticide Biochemistry and Physiology (see attached Exhibit B), it is also not a reference to the present application under 35 USC 102(b).

In view of the above, it is respectfully submitted that the rejection under 35 USC 102(b) should be withdrawn.

The rejection of claims 1-3 under 35 USC 103(a) as being unpatentable over Saunders et al. is respectfully traversed for the reasons set forth below.

The Saunders et al. article deals with the photodegradation of isoxaben in soil surfaces. This rejection is not understood since isoxaben is a isoazole (amide compound) and not a isoxazole (ketone compound). There is no explanation in the office action as to why a teaching concerning isoxaben is relevant to the present claims relating to isoxazoles. Accordingly, the rejection is clearly deficient and in no way establishes a prima facie case of obviousness. Further, the Saunders et al. article was not published until less than one year before the earlier priority date for the present application (February 1, 1999). Accordingly, this article is not a proper reference under 35 USC 102(b) to at least the subject matter of the earlier priority application, which includes all of the concepts that could in any way be affected by the disclosure of the Saunders et al. article.

In view of the above, it is respectfully submitted that the rejection under 35 USC 103(a) should be withdrawn.

The rejection of claims 4-6, 11, 15, and 17 under 35 USC 103(a) as being unpatentable over Rouchaud et al. or Viviani et al. is respectfully traversed for at least the same reasons as set forth above concerning the rejection under 35 USC 102(b) over these references. Accordingly, it is respectfully submitted that this rejection should also be withdrawn.

The priority documents (or English translations or counterparts thereof) for the present application have been submitted to the USPTO. Accordingly, applicants are entitled to rely on the priority dates to antedate the documents cited in the office action.


The objection to claims 7-9 is noted. However, it is respectfully submitted that this objection is no longer relevant in view of the foregoing remarks.

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Withdrawal of all of the rejections under 35 U.S.C. 102, 103 and 112, and the allowance of claims 1-11 and 14-22, is respectfully requested.

Respectfully submitted,  
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Enclosures: Appendices A and B

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